

21543



IN THE U.S. PATENT AND TRADEMARK OFFICE

Inventor                      Horst FÄRBER  
Patent App.                  09/603,528  
Filed                          23 June 2000  
For                              SAMPLING TUBE AND METHOD OF MAKING SAME  
Art Unit                        1743  
Hon. Commissioner of Patents  
Washington, DC 20231

RESPONSE

This is in response to the Office Action (paper 4) mailed  
21 February 2003.

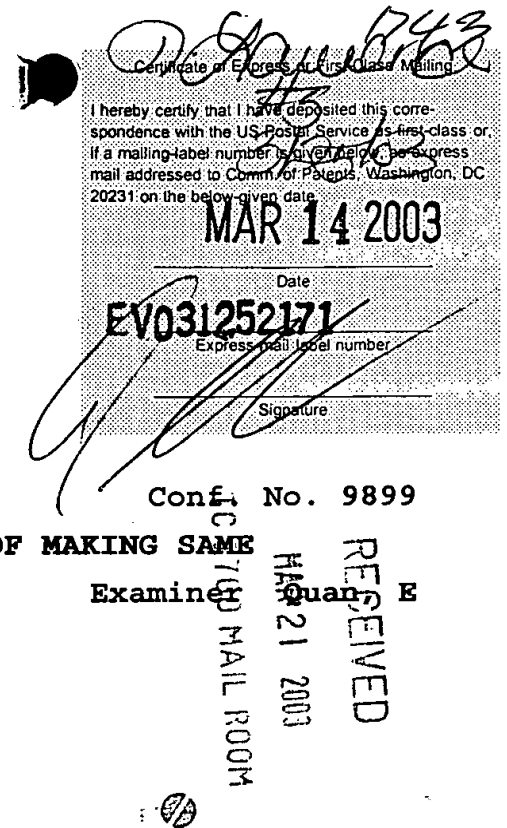
Pursuant to the requirement for restriction, Applicant  
provisionally elects the claims of Group I to which claims 1 - 5  
are directed, namely, the claims drawn to the method, for prosecu-  
tion in this case should the traverse of the requirement for  
restriction be unsuccessful.

The restriction requirement is, however, traversed.

It is true that the claims are related to a method of  
making an article and the article made by that method.

The argument made by the Examiner to support the restric-  
tion requirement is that the product as claimed can be made by  
another and materially different process.

The Examiner in particular suggests that the materially  
different method could be an injection molding without the step of  
reshaping.



Conf. No. 9899

Examined

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Applicant is by no means certain that that is the case and developed a method which is set forth in claim 1 as a method which enabled the partial bottom to be formed where the intermediate bottom was formed in the injection molding process.

As a consequence, absent some evidence that this particular structure could be formed by injection molding without the reshaping step, Applicant must insist that the reshaping step is essential and that the Examiner has not identified any substantially different method for making the specified article. As a consequence, the restriction requirement is inappropriate, the method and the article made by that method ought to be examined in a single application and an action on the merits of all of the claims in the case should be awarded here.

Respectfully submitted,  
The Firm of Karl F. Ross P.C.



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14 March 2003  
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